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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,142	05/09/2001	Robert C. Newbold	033182-001	2710

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EXAMINER

JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/851,142

Applicant(s)

NEWBOLD, ROBERT C.

Examiner

Romain Jeanty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to the communication received May 9, 2001. Claims 1-14 are pending in the application.

Information Disclosure Statement

2. The information disclosure statement filed August 15, 2001 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because **sheet 2 of 2** is missing. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 9 recite the limitation "the product" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-8, and 10-14 are necessarily rejected as being dependent upon the rejection of claims 1 and 9.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The practical application test requires that a useful, concrete and tangible result be accomplished. Claims 1-8 represent abstract methodology therefore are not in the technological arts and are intangible. The consequence is non-statutory. Claims 1-8 can overcome the 35 U.S.C. 101 rejection if amended to recite a computer-Implemented method for scheduling a project and using said computer to performed the steps of the claimed invention.

Claim Rejections - 35 USC § 102

7. Claims 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruce et al (Scheduling Tasks With Due Dates IN A Fabrication/Assembly Process).

As per claims 9-14, Bruce et al disclose:

determining resources required to perform the project and an amount of time to be allocated to each resource, calculating a first flow time value for completing the project when there are no inter-project constraints on the resources, defining a flow expansion coefficient value for the project, designating a proposed start time for the project, calculating a second flow time value

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for completing the project from said proposed start time, in accordance with existing inter-project constraints on the resources, determining whether said second flow time is greater than the product of said first flow time and said coefficient value, determining a new proposed start time if said second flow time is greater than said product, iteratively repeating steps v-vii until said second flow time is less than or equal to said product, setting the start time for the project in accordance with the proposed start time designated during the final iteration of steps v-vii. Note pages 378-387 of Bruce et al.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruce et al (Scheduling Tasks With Due Dates IN A Fabrication/Assembly Process) in view of Fox (U.S. Patent No. 5,890,134).

As per claim 1-7, Bruce et al disclose:

determining resources required to perform the project and an amount of time to be allocated to each resource, calculating a first flow time value for completing the project when there are no inter-project constraints on the resources, defining a flow expansion coefficient value for the project, designating a proposed start time for the project, calculating a second flow time value for completing the project from said proposed start time, in accordance with existing

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inter-project constraints on the resources, determining whether said second flow time is greater than the product of said first flow time and said coefficient value, determining a new proposed start time if said second flow time is greater than said product. Note pages 378-387 of Bruce et al.

Bruce et al discloses all of the limitations above except for iteratively repeating steps v-vii until said second flow time is less than or equal to said product, setting the start time for the project in accordance with the proposed start time designated during the final iteration of steps. Fox in the same field of endeavor, discloses the idea of a repeating process for a completion time of a task/project (col. 9, lines 25-67). It would have been obvious to a person of ordinary skill in the art to modify the teachings of Bruce et al to include the iteration process of Fox in order to optimize the performance schedule of multiple tasks necessary to accomplish a project.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Nakamura et al (U.S Patent No. 5,414,843) disclose a method for automatically producing a production schedule for a project.
- b. Brown et al (U.S. Patent No. 5,671,361) disclose a project scheduling system.
- c. Wright et al (U.S. Patent No. 6,581,040) disclose a system for providing enhanced communications for managing of projects.
- d. Thompson (U.S. Patent No. 6,393,410) discloses a process for estimating a construction project over a computer network.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Romain Jeanty

Primary Examiner

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February 7, 2005